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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANTHONY FERREIRA, on Behalf of Himself)
and All Others Similarly Situated and the)
General Public,)

Plaintiff,)

vs.)

GROUPON, INC., NORDSTROM, INC.,)
Individually and on Behalf of All Similarly)
Situating Entities, and DOES 1 through 100,)
inclusive,)

Defendants.)

No. '11CV0132 DMS POR

CLASS ACTION

COMPLAINT FOR:

- (1) VIOLATIONS OF THE CREDIT CARD ACCOUNTABILITY RESPONSIBILITY AND DISCLOSURE ACT AND THE ELECTRONIC FUNDS TRANSFER ACT, 15 U.S.C. §1693 *et seq.*;
- (2) VIOLATION OF THE UNFAIR COMPETITION LAW, CALIFORNIA BUSINESS AND PROFESSIONS CODE §17200 *et seq.*;
- (3) VIOLATIONS OF THE FALSE ADVERTISING LAW, CALIFORNIA BUSINESS AND PROFESSIONS CODE §17500 *et seq.*;
- (4) VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT, CALIFORNIA CIVIL CODE §1750 *et seq.*; AND
- (5) UNJUST ENRICHMENT

DEMAND FOR JURY TRIAL

1 Plaintiff Anthony Ferreira (“Plaintiff”), by and through his undersigned attorneys, brings this
2 action on behalf of himself and on behalf of a Class of all others similarly-situated, against
3 Defendants Groupon, Inc., Nordstrom, Inc. and the Defendant Retail Class, as defined below, for
4 compensatory damages and equitable, injunctive, and declaratory relief. Plaintiff alleges the
5 following upon information and belief based on the investigation of counsel, except as to those
6 allegations which specifically pertain to Plaintiff (which are alleged upon personal knowledge).

7 **NATURE OF THE ACTION**

8 1. Plaintiff brings this action on behalf of himself and other similarly-situated consumers
9 nationwide who purchased gift certificates for products and services from Groupon, Inc.
10 (“Groupon”). These gift certificates, referred to and marketed as “groupons,” are sold and issued
11 with expiration dates that are deceptive and illegal under both federal and state laws.

12 2. Groupon is a web-based company that purports to offer discounted deals on a wide
13 variety of products and services, including restaurants and bars, salons and spas, clothing and other
14 retail items, and dance classes and other instructional lessons, among other things.

15 3. Groupon’s business model is based on offering discounts to consumers en masse by
16 directly partnering with retail businesses that provide the products or services. Groupon promises to
17 increase the sales volume of its retail partners by sending out “Daily Deal” e-mails to its massive
18 subscription base (comprised of tens of millions of consumers nationwide), highlighting and
19 promoting the products and services of its retail partners.

20 4. Groupon and its retailer partners share in revenues from “groupon” sales. Once
21 consumers agree to purchase a minimum, specified number of “groupon” gift certificates for a
22 particular “Daily Deal,” the “Deal” is triggered, and Groupon charges each consumer the advertised
23 purchase amount. Groupon then sends a confirmatory e-mail to each purchasing consumer with a
24 link to its website for downloading and printing the “groupon” gift certificate, which then may be
25 redeemed with the retail business offering the product or service for a limited period of time.

26 5. Groupon partners with hundreds, if not thousands, of retail businesses around the
27 country, including large, nationwide companies such as Nordstrom, Inc. (“Nordstrom”).
28

1 6. The problem with Groupon’s business model is that Groupon and its retail partners,
2 including Nordstrom, sell and issue “groupon” gift certificates with relatively short expiration dates,
3 knowing that many consumers will not use the gift certificates prior to the expiration date. However,
4 the Credit Card Accountability Responsibility and Disclosure Act (“CARD Act”) and the Electronic
5 Funds Transfer Act (“EFTA”), 15 U.S.C. §1693 *et seq.*, specifically prohibit the sale and issuance of
6 gift certificates, such as “groupons,” with expiration dates. Similarly, California Civil Code §1749.5
7 prohibits the sale and issuance of gift certificates with expiration dates.

8 7. Groupon’s systematic placement of expiration dates on its gift certificates is deceptive
9 and harmful to consumers. Groupon effectively creates a sense of urgency among consumers to
10 quickly purchase “groupon” gift certificates by offering “Daily Deals” for a short amount of time,
11 usually a 24-hour period. Consumers therefore feel pressured and are rushed into buying the gift
12 certificates and unwittingly become subject to the onerous sales conditions imposed by Groupon,
13 including illegal expiration terms, which are relatively short, often just a few months.

14 8. Groupon and its retail partners, including Nordstrom, bank on the fact that consumers
15 often will not manage to redeem “groupon” gift certificates before the limited expiration period –
16 therefore, many consumers are left with nothing, despite already having paid for the particular
17 service or product. Accordingly, Groupon and its retail partners reap a substantial windfall from the
18 sale of gift certificates that are not redeemed before expiration, which is precisely the type of
19 harmful business conduct that both Congress and the California State Legislature intended to
20 prohibit.

21 9. Plaintiff, like many unsuspecting consumers nationwide, fell victim to Groupon’s
22 deceptive and unlawful illegal conduct and purchased a “groupon” gift certificate bearing an illegal
23 expiration date.

24 10. Plaintiff, on behalf of himself and the Class, therefore brings this class action against
25 Groupon, Nordstrom and the Defendant Retail Class, as defined below, and Does 1 through 100,
26 inclusive (collectively “Defendants”) for equitable (injunctive and/or declaratory) relief, violations
27 of the CARD Act and the EFTA, 15 U.S.C. §1693 *et seq.*; California’s Unfair Competition Law,
28 Cal. Bus. & Prof. Code §17200 *et seq.* (“UCL” or “17200”); the False Advertising Law, Cal. Bus &

1 Prof. Code §17500 *et seq.* (“FAL” or “17500”); Consumer Legal Remedies Act, Cal. Civ. Code
2 §1750 *et seq.* (“CLRA”); and unjust enrichment. Plaintiff seeks damages and equitable relief on
3 behalf of himself and the Class, which relief includes, but is not limited to, full refunds for Plaintiff
4 and Class members, compensatory and punitive damages, an order enjoining Defendants and the
5 Defendant Retail Class from selling and issuing “groupon” gift certificates with expiration dates and
6 other onerous terms, costs and expenses, as well as Plaintiff’s reasonable attorneys’ fees and expert
7 fees, and any additional relief that this Court determines to be necessary or appropriate to provide
8 complete relief to Plaintiff and the Class.

9 **PARTIES**

10 11. At all times relevant to this matter, Plaintiff, Anthony Ferreira, resided and continues
11 to reside in San Diego, California. During the relevant time period, Mr. Ferreira received offers for
12 discounted products and services from Groupon and purchased a “groupon” gift certificate based on
13 representations and claims made by Groupon. The “groupon” gift certificate purchased by
14 Mr. Ferreira was subject to an illegal expiration date.

15 12. Defendant, Groupon, Inc., is a privately-held company incorporated under the laws of
16 the state of Delaware. Groupon’s corporate headquarters is located in Chicago, Illinois. Groupon
17 also maintains an office in Palo Alto, California. Groupon is registered to do business in the state of
18 California and does business in the state of California. Groupon markets, sells and issues its
19 “groupon” gift certificates to millions of consumers throughout the United States, including
20 hundreds of thousands of consumers in California and in San Diego County.

21 13. Defendant, Nordstrom, Inc., is a leading specialty retailer with more than 200 stores
22 located in 28 different states. In addition to its flagship retail stores, Nordstrom operates a chain of
23 clearance stores called Nordstrom Rack. Nordstrom is a Washington corporation with its principal
24 executive offices located in Seattle, Washington. Nordstrom is registered to do business in the state
25 of California, and does business in the state of California. At all relevant times, Nordstrom operated
26 and continues to operate retail stores, including Nordstrom Rack stores, in California and in San
27 Diego County. Groupon, on behalf of Nordstrom and under an agreement with Nordstrom,
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1 marketed, sold and issued “groupon” gift certificates for Nordstrom Rack products to Class members
2 thought the country, in California, and in San Diego County.

3 14. Nordstrom is being sued individually and on behalf of a Defendant Retail Class of
4 business entities all over the United States that enter agreements and/or partner with Groupon to sell
5 and issue “groupon” gift certificates with expiration dates.

6 15. The true names and capacities of Defendants sued herein as Does 1 through 100,
7 inclusive, are presently unknown to Plaintiff who therefore sues these Defendants by fictitious
8 names. Plaintiffs will amend this Complaint to show their true names and capacities when they have
9 been ascertained. Each of the Doe Defendants is responsible in some manner for the conduct alleged
10 herein.

11 **JURISDICTION AND VENUE**

12 16. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 and the Class
13 Action Fairness Act of 2005, 28 U.S.C. §1332(d)(2). The matter in controversy in this class action
14 exceeds \$5,000,000, exclusive of interest and costs, and some members of the class are citizens of
15 states other than the states in which Defendants are incorporated and have their principal place of
16 business. In addition, pursuant to 28 U.S.C. §1367, this Court has supplemental jurisdiction over
17 Plaintiff’s state law claims.

18 17. This Court has personal jurisdiction over Groupon and Nordstrom because they are
19 authorized to do business and have conducted business in California, they have specifically
20 marketed, sold and issued “groupon” gift certificates in California, they have sufficient minimum
21 contacts with this State, and/or sufficiently avail themselves to the markets of this State through their
22 promotion, sales, and marketing within this State to render the exercise of jurisdiction by this Court
23 permissible.

24 18. Venue is proper in this District pursuant to 28 U.S.C. §§1391(a) and (b), because a
25 substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this judicial
26 district. Venue is also proper under 18 U.S.C. §1965(a) because Defendants transact substantial
27 business in this District.

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1 **FACTUAL ALLEGATIONS**

2 **A. Defendants’ Scheme to Sell and Issue Gift Certificates with**
3 **Illegal Expiration Dates**

4 19. Launched in November 2008, Groupon is a “social promotions” website that
5 promises consumers discounted deals on various products and services, purportedly through the
6 power of “collective buying.” To take advantage of the deals offered by Groupon, consumers must
7 sign-up and provide their e-mail address and other information to Groupon. Close to 40 million
8 people worldwide reportedly have signed-up to receive offers from Groupon.

9 20. Every weekday, Groupon sends subscribers in each of the cities it operates a “Daily
10 Deal” e-mail, promoting the particular products or services of the retail businesses with which it has
11 partnered. To trigger the “Daily Deal,” consumers must purchase a specified number of “groupon”
12 gift certificates for the particular product or service offered that day. Groupon sends targeted “Daily
13 Deal” e-mails to close to 90 cities throughout the United States.

14 21. To arouse consumer interest and create the urgency to buy “groupon” gift certificates,
15 Groupon offers the “Daily Deal” for a limited amount of time, usually a 24-hour period. This creates
16 a “shopping frenzy” among consumers who feel pressured to purchase “groupon” gift certificates as
17 quickly as possible. Consumers purchase “groupon” gift certificates directly through Groupon’s
18 website, using their credit or debit cards.

19 22. Groupon also uses electronic social media, such as Facebook and Twitter, to promote
20 and stoke demand for its “Daily Deals,” creating additional pressure among consumers to buy
21 “groupon” gift certificates before time runs out.

22 23. Once Groupon sells the specified number of “groupon” gift certificates for a
23 particular “Daily Deal,” the “Deal” is officially on, and consumers are charged for the purchase.
24 Groupon subsequently sends a confirmatory e-mail to purchasers with a link to its website, through
25 which purchasers may download and print their “groupon” gift certificates. Consumers may also
26 purchase and download “groupon” gift certificates directly to their mobile phones using an
27 application available on Groupon’s website. “Groupon” gift certificates thereafter may be directly
28 redeemed with the retail businesses offering the products and services.

1 24. Groupon imposes illegal expiration dates, among other onerous conditions, on each
2 “groupon” gift certificate it sells and issues, to the detriment of consumers. The expiration periods
3 on “groupon” gift certificates frequently range just a few months from the date of purchase.
4 Ironically, Groupon knows that after it has driven consumers to purchase “groupon” gift certificates
5 as quickly as possible, many consumers ultimately will be unable to redeem the gift certificates
6 before the expiration period.

7 25. Accordingly, consumers often cannot take advantage and use the product or service
8 for which they paid before the expiration period imposed by Groupon – leaving a substantial
9 windfall for Groupon and its retail partners.

10 26. In addition to imposing illegal expiration periods, Groupon foists other deceptive and
11 unfair conditions on consumers. Groupon requires consumers to redeem “groupon” gift certificates
12 in the course of a single transaction. Consumers therefore are forced to redeem their gift certificates
13 all at once and cannot use their the gift certificates for multiple transactions or on multiple occasions.
14 Likewise, consumers cannot redeem any unused portion of “groupon” gift certificates for the cash
15 amount. Groupon essentially places handcuffs on the manner in which consumers can redeem their
16 gift certificates for the products and services offered, even though consumers have already paid in
17 full for such products and services.

18 **B. Groupon’s Retail Business Partners Agree to Sell Gift**
19 **Certificates with Illegal Expiration Dates**

20 27. Groupon focuses on two markets – the consumers who wish to obtain the advertised
21 products or services by purchasing “groupon” gift certificates, and the retail businesses who partner
22 with Groupon to promote their products and services. These retail businesses are willing to partner
23 with Groupon and offer their products and services at a discount because Groupon promises to
24 promote their products and services to its huge subscription base and guarantees them a specified
25 volume of business. In fact, Groupon promises its retail partners that its “Daily Deal” promotion
26 will bring them new customers “overnight.”

27 28. Groupon partners with both local businesses and large, nationwide companies, such
28 as Nordstrom. Hoping to bolster slumping retail sales and capitalize on the 2010 holiday shopping

1 season, Nordstrom teamed up with Groupon to promote its chain of discount clearance stores,
2 Nordstrom Rack, and offered a Nordstrom Rack “Daily Deal” in late November 2010. The
3 promotion was wildly successful as tens of thousands of consumers nationwide flocked to purchase
4 Nordstrom Rack “groupons.” All of these Nordstrom Rack “groupons” were sold and issued with
5 illegal expiration terms.

6 29. Groupon’s business model, particularly its ability to establish partnerships with retail
7 businesses nationwide, including Nordstrom and other members of the Defendant Retail Class,
8 depends in large part on its systematic use of illegal expiration dates. Groupon knows that its retail
9 partners are not willing to offer their products and services at a discount to consumers through the
10 sale of “groupon” gift certificates, without an agreement to limit the time period for which
11 consumers can redeem the gift certificates. Accordingly, Groupon and its retail partners, including
12 Nordstrom, continue to flaunt the law by imposing illegal expiration dates on the “groupon” gift
13 certificates sold to consumers.

14 30. Groupon reaps massive profits from this business model. Groupon typically takes for
15 itself half (50%) on the sale of each “groupon” gift certificate. Groupon reportedly made half a
16 billion dollars from “groupon” sales in 2010 alone.

17 **C. Plaintiff Ferreira’s Purchase of a Nordstrom Rack Groupon with an**
18 **Illegal Expiration Date**

19 31. On or about November 21, 2010, Plaintiff Anthony Ferreira received a “Daily Deal”
20 e-mail offer from Groupon for Nordstrom Rack “groupon” gift certificates.

21 32. Under the terms of the “Daily Deal” offer, as set forth on Groupon’s website, Mr.
22 Ferreira was required to pay \$25.00 to Groupon in exchange for a “groupon” gift certificate
23 redeemable for \$50.00 worth of apparel, shoes, accessories and other retail products at Nordstrom
24 Rack.

25 33. “The Fine Print” section of the “Daily Deal” offer stated that the Nordstrom Rack
26 “groupon” gift certificate “Expires Dec 31, 2010.” “The Fine Print” section also imposed the
27 following conditions: “Limit 1/person. Valid at all Nordstrom Rack locations. In-store only. Not
28 valid for gift cards. Not valid with other offers or discounts.”

1 comprised of more than a 1,000 entities doing business in the United States. The Classes are so
2 numerous that joinder of all members of the Classes is impracticable.

3 40. **Commonality and Predominance.** Common questions of law and fact exist as to
4 Plaintiff and all Class members and predominant over any questions which affect only individual
5 members of the Class. These common questions of law and fact include, without limitation:

6 (a) Whether Groupon, in conjunction with Nordstrom and the Defendant Retail
7 Class, sold and issued “groupon” gift certificates featuring and subject to
8 expiration dates;

9 (b) Whether Defendants and the Defendant Retail Class’ imposition of expiration
10 dates on “groupon” gift certificates violates federal and/or California state
11 laws;

12 (c) Whether Defendants and the Defendant Retail Class engaged in deceptive
13 and unfair business and trade practices related to the imposition of expiration
14 dates on “groupon” gift certificates and other onerous terms and conditions;

15 (d) Whether Plaintiff and Class members are entitled to declaratory, injunctive
16 and/or equitable relief; and

17 (e) Whether Plaintiff and Class members are entitled to compensatory damages,
18 including actual and statutory damages.

19 41. **Typicality.** Plaintiff’s claims are typical to the claims of Class members. Plaintiff
20 and the members of the Plaintiff Class sustained damages arising out of Defendants and the
21 Defendant Retail Class’ common course of conduct in violation of law as complained of herein. The
22 damages of each Class member was caused directly by Defendants and the Defendant Retail Class’
23 wrongful conduct in violation of law as alleged herein.

24 42. **Adequacy.** Plaintiff will fairly and adequately protect the interests of the Plaintiff
25 Class. Plaintiff is an adequate representative of the Plaintiff Class and has no interests which are
26 adverse to the interests of absent class members. Plaintiff has retained counsel who have substantial
27 experience and success in the prosecution of complex class action and consumer protection
28 litigation. Nordstrom is an adequate representative of the Defendant Retail Class because it is a

1 large, nationwide company that entered into agreements and/or partnered with Groupon to sell and
2 issue “groupon” gift certificates with expiration dates. Nordstrom has the financial resources
3 necessary to defend this action on behalf of itself and the Defendant Retail Class, and is motivated to
4 vigorously defend this action given its joint and several, if not ultimate, liability for the acts
5 complained of herein.

6 43. **Superiority.** A class action is superior to other available means for the fair and
7 efficient adjudication of this controversy since individual joinder of all Class members is
8 impracticable. Class action treatment will permit a large number of similarly situated persons to
9 prosecute their common claims in a single forum simultaneously, efficiently and without the
10 unnecessary duplication of effort and expense that numerous actions would engender. Furthermore,
11 the expenses and burden of individual litigants and the lack of knowledge of Class members
12 regarding Defendants’ activities, would make it difficult or impossible for individual Class members
13 to redress the wrongs done to them, while an important public interest will be served by addressing
14 the matter as a class action. The cost to the court system of adjudication of such individualized
15 litigation would be substantial. The trial and litigation of Plaintiff’s claims will be manageable.

16 **COUNT I**

17 **Violations of the Credit Card Accountability Responsibility and Disclosure Act**
18 **and Electronic Funds Transfer Act, 15 U.S.C. §1693 *et seq.*, on**
19 **Behalf of Plaintiff and All Class Members Against All Defendants**

20 44. Plaintiff repeats and re-alleges each and every allegation contained above as if set
21 forth herein.

22 45. The CARD Act, which amends the EFTA, prohibits the sale or issuance of gift
23 certificates that feature and are subject to expiration dates.

24 46. Groupon, Nordstrom and members of the Defendant Retail Class sold and issued
25 and/or agreed to sell and issue “groupoons,” which are “gift certificates” as defined under 15 U.S.C.
26 §1693l-1(a)(2)(B), as “groupoons” constitute promises that are: (a) redeemable at a single merchant or
27 an affiliated group of merchants; (b) issued in a specified amount that may not be increased or
28 reloaded; (c) purchased on a prepaid basis in exchange for payment; and (d) honored upon
presentation by such single merchant or affiliated group of merchants for goods or services.

1 47. At all relevant times, “Groupon” gift certificates were sold and issued to consumers
2 through electronic fund transfer systems established, facilitated and monitored by Groupon.

3 48. “Groupon” gift certificates are not exclusively issued in paper form, as Groupon
4 provides an e-mail link to consumers to download and print such gift certificates. Moreover,
5 consumers may download “groupon” gift certificates to their mobile phones through an application
6 available on Groupon’s website.

7 49. “Groupon” gift certificates are marketed and sold to the general public and are not
8 issued as part of any loyalty, award, or promotional program.

9 50. Groupon, Nordstrom and members of the Defendant Retail Class violated the CARD
10 Act and EFTA by selling and issuing and/or agreeing to sell and issue “groupon” gift certificates
11 with expiration dates, which is plainly prohibited under §1693l-1(a)(2)(B) and §1693l-1(c)(1).

12 51. As a direct and proximate result of Defendants’ unlawful acts and conduct, Plaintiff
13 and Class members were deprived of the use of their money that was charged and collected by
14 Defendants through the sale of “groupon” gift certificates with illegal expiration dates.

15 52. Pursuant to 15 U.S.C. § 1693m, Plaintiff, on behalf of himself and the Class, seeks a
16 Court order for actual and statutory damages to be determined by the court, injunctive relief, as well
17 as reasonable attorneys’ fees and the cost of this action.

18 **COUNT II**

19 **Violations of California Business & Professions Code §17200 et seq.,**
20 **on Behalf of Plaintiff and Class Members Who Reside in California**
Against All Defendants

21 53. Plaintiff repeats and re-alleges each and every allegation contained above as if set
22 forth herein.

23 54. Section 17200 of the California Business & Professions Code (“Unfair Competition
24 Law” or “UCL”) prohibits any “unlawful,” “unfair” and “fraudulent” business practice.

25 55. Section 17200 specifically prohibits any “*unlawful* . . . business act or practice.”
26 Defendants have violated §17200’s prohibition against engaging in an unlawful act or practice by,
27 *inter alia*, selling and issuing and/or agreeing to sell and issue “groupon” gift certificates that feature
28 and are subject to expiration dates that are prohibited under both federal and California state laws.

1 56. Defendants' ongoing sale and issuance of gift certificates with expiration dates
2 violates the CARD Act and EFTA, 15 U.S.C. §1693 *et seq.*, as discussed above.

3 57. Defendants' conduct also violates California's gift certificate laws, Cal. Civ. Code
4 §1749.5, and the CLRA, §1750 *et seq.*, as discussed below. Plaintiff and Class members reserve
5 their right to allege other violations of law which constitute other unlawful business acts or practices,
6 as further investigation and discovery warrants. Such conduct is ongoing and continues to this date.

7 58. Section 17200 also prohibits any "*unfair . . . business act or practice.*" As described
8 in the preceding paragraphs, Defendants engaged in the unfair business practice of selling and
9 issuing "groupon" gift certificates with illegal and deceptive expiration dates.

10 59. Groupon, with the approval and agreement of its retail business partners, including
11 Nordstrom, imposed other unfair conditions on its "groupon" gift certificates, including forcing
12 consumers to redeem the gift certificates in the course of a single transaction and not providing for
13 the exchange of any unused portion of the gift certificates for their cash value. Defendants also
14 unfairly limited consumers from using more than one "groupon" gift certificate during each visit to
15 the retail business offering the particular product or service.

16 60. Defendants' business practices, as detailed above, are unethical, oppressive and
17 unscrupulous, and they violate fundamental policies of this State. Further, any justifications for
18 Defendants' wrongful conduct are outweighed by the adverse effects of such conduct. Thus,
19 Defendants engaged in unfair business practices prohibited by California Business & Professions
20 Code §17200 *et seq.*

21 61. Section 17200 also prohibits any "*fraudulent business act or practice.*" Defendants
22 violated this prong of the UCL by disseminating and/or agreeing to disseminate, through Groupon's
23 website and other promotional channels, misleading and partial statements about "groupon" gift
24 certificates that have a tendency to mislead the public. Further, Defendants violated this prong of the
25 UCL by omitting material information about "groupon" gift certificates with the intent to induce
26 reliance by consumers to purchase such gift certificates. Defendants' claims, nondisclosures and
27 misleading statements concerning "groupon" gift certificates, as more fully set forth above, were
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1 false, misleading and/or likely to deceive the consuming public within the meaning of California
2 Business and Professions Code §17200.

3 62. Section 17200 also prohibits any “unfair, deceptive, untrue or misleading
4 advertising.” For the reasons set forth above, Defendants engaged in unfair, deceptive, untrue and
5 misleading advertising in violation of California Business & Professions Code §17200.

6 63. Defendants’ conduct caused and continues to cause substantial injury to Plaintiff and
7 other Class members. Plaintiff has suffered injury in fact and lost money as a result of Defendants’
8 unfair conduct.

9 64. Additionally, pursuant to California Business & Professions Code §17203, Plaintiff
10 seeks an order requiring Defendants to immediately cease such acts of unlawful, unfair and
11 fraudulent business practices and requiring Defendants to return the full amount of money
12 improperly collected to all those who have paid them.

13 **COUNT III**

14 **False and Misleading Advertising in Violation of California Business**
15 **& Professions Code §17500 *et seq.*, on Behalf of Plaintiff and**
16 **Class Members Who Reside in California Against All Defendants**

17 65. Plaintiff repeats and re-alleges each and every allegation contained above as if set
18 forth herein.

19 66. California Business & Professions Code §17500 *et seq.* prohibits various deceptive
20 practices in connection with the dissemination in any manner of representations which are likely to
21 deceive members of the public to purchase products and services such as the “groupon” gift
22 certificates offered by Defendants.

23 67. Defendants’ acts and practices as described herein have deceived and/or are likely to
24 deceive Plaintiff and Class members. Defendants use Groupon’s website and targeted “Daily Deal”
25 promotions, along with other social media, such as Facebook and Twitter, to extensively market and
26 advertise the gift certificates with misleading and illegal expiration dates and other deceptive terms
27 to consumers.

28 68. By their actions, Defendants have been and are disseminating uniform advertising
concerning “groupon” gift certificates, which by its nature is unfair, deceptive, untrue, or misleading

1 within the meaning of California Business & Professions Code §17500 *et seq.* Such advertisements
2 are likely to deceive, and continue to deceive, the consuming public for the reasons detailed above.

3 69. Defendants intended Plaintiff and Class members to rely upon the advertisements and
4 numerous material misrepresentations as set forth more fully elsewhere in the Complaint. In fact,
5 Plaintiff and Class members relied upon the advertisements and misrepresentations to their
6 detriment.

7 70. The above described false, misleading, deceptive advertising Defendants
8 disseminated continues to have a likelihood to deceive in that Defendants have failed to disclose the
9 true and actual limitations of their gift certificates. Defendants have failed to instigate a public
10 information campaign to alert consumers of these limitations, which continues to create a misleading
11 perception of the efficacy of their gift certificates.

12 **COUNT IV**

13 **Violations of the Consumer Legal Remedies Act, California Civil Code**
14 **§1750 *et seq.*, on Behalf of Plaintiff and Class Members Who Reside in**
California Against All Defendants

15 71. Plaintiff repeats and re-alleges each and every allegation contained above as if set
16 forth herein.

17 72. The California Consumers Legal Remedies Act, Cal. Civ. Code §1750 *et seq.*
18 provides protection for California consumers against unfair, deceptive and unlawful practices, and
19 unconscionable commercial practices in connection with the sale of any goods or services.

20 73. Plaintiff and the Class are “consumers” as defined by Cal. Civ. Code §1761(d). The
21 “groupon” gift certificates sold and issued by Groupon, Nordstrom and members of the Defendant
22 Retail Class constitute “goods” and “services” as defined by Cal. Civ. Code §1761(a) and (b).

23 74. Defendants’ ongoing placement of illegal expiration dates and imposition of other
24 deceptive sales terms on “groupon” gift certificates violate the following subsections of Cal. Civ.
25 Code §1770(a) in these respects:

- 26 (5) Defendants’ acts and practices constitute misrepresentations that
27 “groupon” gift certificates have characteristics, benefits or uses which
28 they do not have;

- 1 (7) Defendants misrepresented that “groupon” gift certificates are of a
2 particular standard, quality and/or grade, when they are of another;
- 3 (9) Defendants’ acts and practices constitute the advertisement of goods,
4 without the intent to sell them as advertised;
- 5 (14) Defendants’ acts and practices fail to represent that the transaction
6 involving “groupon” gift certificates confers or involves obligations
7 that are prohibited by law, particularly the imposition of illegal
8 expiration dates and other onerous sales terms;
- 9 (16) Defendants’ acts and practices constitute representations that
10 “groupon” gift certificates have been supplied in accordance with
11 previous representations when they have not; and
- 12 (19) Defendants inserted unconscionable provisions in the contract for the
13 purchase of gift certificates, specifically illegal expiration dates and
14 other onerous, one-sided restrictions as to the gift certificates’ use and
15 redemption.

16 75. By reason of the foregoing, Plaintiff and the Class haven been irreparably harmed,
17 entitling them to injunctive relief, disgorgement and restitution.

18 76. Pursuant to §1782 of the CLRA, Plaintiff notified Defendants in writing of the
19 particular violations of §1770 of the CLRA and demanded Defendants rectify the actions described
20 above by providing complete monetary relief, agreeing to be bound by their legal obligations and to
21 give notice to all affected customers of their intent to do so. Plaintiff sent this notice by certified
22 mail, return receipt requested, to Defendants’ principal place of business.

23 77. If Defendants fail to adequately respond to Plaintiff’s demand within 30 days of the
24 letter pursuant to §1782 of the CLRA, Plaintiff will amend this claim to add additional claims for
25 relief, including claims for compensatory and exemplary damages. Plaintiff is already entitled to the
26 relief set forth above, along with costs, attorneys’ fees and any other relief which the Court deems
27 proper.

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COUNT V

**Unjust Enrichment on Behalf of Plaintiff and
All Class Members Against All Defendants**

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4 78. Plaintiff repeats and re-alleges each and every allegation contained above as if set
5 forth herein.

6 79. Defendants have received, and continue to receive, a benefit at the expense of
7 Plaintiff and the Class members.

8 80. Defendants knowingly and/or recklessly sold and issued or agreed to sell and issue
9 “groupon” gift certificates with illegal expiration dates, as well with other deceptive terms and
10 conditions.

11 81. As a direct and proximate result of Defendants’ unlawful acts and conduct, Plaintiff
12 and Class members were deprived of the use of their money that was unlawfully charged and
13 collected by Defendants, and are therefore entitled to reimbursement of any money unjustly paid to
14 Defendants in connection with the sale of “groupon” gift certificates.

PRAYER FOR RELIEF

15 Plaintiff, individually, and on behalf of the Class, prays for judgment and relief against
16 Defendants as follows:

17 A. For an order declaring this a class action pursuant to Rule 23 of the Federal Rules of
18 Civil Procedure on behalf of the proposed classes described herein and appointing Plaintiff to serve
19 as class representative and Plaintiff’s counsel Robbins Geller Rudman & Dowd LLP as Lead
20 Counsel for the Class;

21 B. For an order enjoining Defendants and the Defendant Retail Class from continuing to
22 sell and issue “groupon” gift certificates and pursue the above policies, acts and practices related to
23 the sale and issuance of such gift certificates;

24 C. For an order requiring Defendants and the Defendant Retail Class to fund a corrective
25 advertising campaign in order to remedy their wrongful and illegal conduct;

26 D. For an order awarding restitution of the monies Defendants and the Defendant Retail
27 Class wrongfully acquired by Defendants’ wrongful and illegal conduct;
28

1 E. For an order requiring disgorgement of monies wrongfully obtained as a result of
2 Defendants and the Defendant Retail Class' wrongful and illegal conduct;

3 F. For compensatory and punitive damages, including actual and statutory damages,
4 arising from Defendants' and the Defendant Retail Class' wrongful and illegal conduct;

5 G. For an award of reasonable attorneys' fees and all costs and expenses incurred in the
6 course of prosecuting this action;

7 H. For pre-judgment and post-judgment interest at the legal rate; and

8 I. For such other and further relief as the Court deems just and proper.

9 **JURY DEMAND**

10 Plaintiff demands a trial by jury on all issues so triable.

11 DATED: January 21, 2011

ROBBINS GELLER RUDMAN
& DOWD LLP
JOHN J. STOIA, JR.
RACHEL L. JENSEN
PHONG L. TRAN

15 s/ Rachel L. Jensen
RACHEL L. JENSEN

16 655 West Broadway, Suite 1900
17 San Diego, CA 92101
18 Telephone: 619/231-1058
619/231-7423 (fax)

19 Attorneys for Plaintiff

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*JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ANTHONY FERREIRA, on Behalf of Himself and All Others Similarly Situated and the General Public

(b) County of Residence of First Listed Plaintiff San Diego County, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Rachel L. Jensen; Robbins Geller Rudman & Dowd LLP
655 W. Broadway, #1900, San Diego, CA 92101; T: 619-231-1058

DEFENDANTS

GROUPON, INC., NORDSTROM, INC., Individually and on Behalf of All Similarly Situated Entities, and DOES 1 through 100, inclusive
County of Residence of First Listed Defendant Cooke County, IL

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'11 CV0132 DMS POR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	LABOR LAWS	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER SUITS	JUDICIAL REMEDIES
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DW/C/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

45 U.S.C. 1693

Brief description of cause:

Complaint for violations of CARD Act, EFTA, UCL, FAL and CLRA

28:1331 jrb

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Not applicable.

DOCKET NUMBER Not applicable.

DATE

01/21/2011

SIGNATURE OF ATTORNEY OF RECORD

s/ Rachel L. Jensen

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.